



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#0

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/990,210 12/12/97 LASKY

M 4743-9

LM02/0113

MELTZER LIPPE GOLDSTEIN
WOLF AND SCHLISSEL
190 WILLIS AVENUE
MINEOLA NY 11501

EXAMINER

WEITKUNAT, R

ART UNIT

PAPER NUMBER

2711

DATE MAILED:

01/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/990,210

Applicant(s)

LASKY, MICHAEL

Examiner

Richard Weitkunat

Art Unit

2711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____.

Art Unit: 2711

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

1. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said control program" in line 11 of claim 1. There is insufficient antecedent basis for this limitation in the claim. Examiner will interpret "control program" to mean "controller" for the treatment of claims 1-4 below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2711

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated over Davis et al. (US 5,822,123).

Regarding claim 1, Davis et al. discloses an electronic program schedule system (see figure 1), which includes a receiver for receiving television programs for a plurality of television channels and a tuner for tuning a television receiver to a selected one of the plurality of channels.

Davis et al. discloses that a data processor (figure 1, element 16) receives and stores in a memory television program schedule information for a plurality of television programs to appear on the plurality of television channels, and program control information to control the operation of the program schedule system (see column 5, lines 48-57). The microcontroller (see figure 1, element 16) uses the received program schedule information to build a database by storing the data in appropriately organized records (see column 9, lines 41-44). The database record stored for each listing contains a content-specific identifier so the microcontroller can search the database and categorize the information by content (see column 19, lines 2-5). Davis et al. teaches a clock (see figure 1, element 19) connected to the microcontroller as illustrated in figure 1.

While Davis et al. does not explicitly state that the program schedule information database contains times and channel numbers, figures 18-20 shows

Art Unit: 2711

listings of the program schedule information (see column 7, lines 19-27) which clearly shows channel and time information associated with each television program. Thus the program schedule information inherently includes time and channel information.

Davis et al. discloses a user control apparatus, such as a remote controller, that is utilized by a viewer to choose user control commands and transmit signals in response to the data processor which receives the signals in response to user control commands (see column 5, lines 57-61).

Davis et al. further discloses that when the user is viewing a particular program channel on the television receiver, the program schedule system defaults to a FLIP mode. In this mode, a graphic overlay containing programming information for the channel currently tuned on the tuner is superimposed in overlaying relationship with a received program signal on the screen of the television receiver whenever the viewer changes the program channel, for example, by using the up/down direction arrows on the remote controller (see column 13, lines 59-67). In normal operation, the microcontroller defaults to displaying all channels prioritized by numeric order (see column 14, lines 19-21).

Davis et al. discloses a BROWSE mode where the user can scan through program schedule information for any channel, including, but not limited to, the channel being viewed, while at the same time continuing to view the TV program previously selected (see column 15, lines 14-18). If the user depresses either the top or bottom direction arrow on the remote controller while in the BROWSE

Art Unit: 2711

mode, program schedule information for either the prior or next channel is displayed in the graphic overlay portion of the television receiver screen while the tuner remains tuned to the channel program at the time the user entered the BROWSE mode (see column 15, lines 29-35). The user can tune the television receiver from the program channel currently being watched to the program channel indicated in the graphic overlay by pressing an ENTER button on the remote control (see column 15, lines 53-59).

Davis et al. further discloses that the remote controller can be supplied with a plurality of content-specific keys corresponding to a plurality of content-specific categories of programming, e.g. a Sports key, News key, Movie key, etc. When the user depresses a content-specific key, a content-specific mode is initiated (see column 31, lines 37-42). The microcontroller will block all other programming or schedule information from appearing on the television receiver (see column 31, lines 46-48). The user activates a content-specific mode by depressing the appropriate content-specific key in any mode of operation of the electronic program guide, including the FLIP, BROWSE, or MAIN MENU modes, as well as when no schedule information is being displayed (see column 31, lines 58-63).

Regarding claim 2, Davis et al. discloses an input signal (see figure 1, element 11) being received by a receiver (see figure 1, element 12), which receives a data stream from a data provider. (see column 9, lines 8-9). The data provider is a program information provider, a satellite uplink manager, a local

Art Unit: 2711

cable operator, or combination of these sources, and the data stream contains program schedule information for all television programs (see column 9, lines 14-20).

Regarding claim 3, Davis et al. teaches in figure 44B a graphics overlay indicating that the system is in BROWSE mode (see column 8, lines 41-43). As previously discussed with respect to claim 1, Davis teaches that while in a content-specific mode, the BROWSE mode shows the user what other programs are available in the selected category.

Method claim 5 corresponds to apparatus in claim 1 and is addressed as previously discussed with respect to claim 1.

Method claim 6 corresponds to apparatus in claim 2 and is addressed as previously discussed with respect to claim 2.

Method claim 7 corresponds to apparatus in claim 3 and is addressed as previously discussed with respect to claim 3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2711

5. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (US 5,822,123).

Regarding claim 4, Davis et al teaches in figure 44B a graphics overlay indicating that the system is in BROWSE mode, and showing arrows above and below the channel identifier (see column 8, lines 41-43). Davis et al. also teaches that it is preferred to have a system that indicates to the user those keys on the remote controller that are active in any particular mode of operation (see column 4, lines 28-20). While in BROWSE mode, the user may select another program as previously discussed with respect to claim 1.

While Davis et al. does not teach that the arrows will appear if a next channel is available, it would have been obvious to one of ordinary skill in the art to display the arrows only if there is a next channel available, in order to indicate to the user if there are other channels available for viewing. While in a content-specific mode as previously discussed with regard to claim 3, it is conceivable that no other channels may be concurrently broadcasting a program that belongs to the selected category, and thus it would be useful to the user to indicate this to the user by displaying the arrows only if there are other channels to view that are concurrently broadcasting a program that belongs to the selected category. This would indicate to the user to use the arrow keys on the remote control only when there are other channels in the selected category available for viewing.

Method claim 8 corresponds to apparatus in claim 4 and is addressed as previously discussed with respect to claim 4. Also, while Davis et al. uses up and

Art Unit: 2711

down arrows to indicate the availability of the next program and utilizes the up and down arrow keys, the usage of up and down arrows is analogous to the usage of left and right arrows and is not patentably distinct.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Lemmons et al. (US 5,880,768) Interactive program guide with restrictive search criteria.
- Florin et al. (US 5,621,456) Interactive program guide with multiple program categories.
- Rowe et al. (US 5,812,123) Interactive program guide with multiple program categories.
- Ellis et al. (US 5,986,650) Interactive program guide with multiple program categories.
- Youman et al. (US 5,629,733) Interactive program guide with multiple program categories.
- Knee et al. (US 5,589,892) Interactive program guide with multiple program categories.
- Beery (US 5,963,269) Figure 3 teaches a remote controller with one set of up/down arrow keys for flipping through channels, and another set of arrow keys for flipping through a select subset of channels.

Art Unit: 2711

- Amano et al. (US 5,585,865) Interactive program guide with multiple program categories.
- Na (US 5,296,931) Method for selecting programs of the same category.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Weitkunat whose telephone number is 703-305-0628. The examiner can normally be reached on Mon-Thurs, alternate Fridays, 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-308-5359 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Richard Weitkunat
Patent Examiner
January 11, 2000


ANDREW I. FAILE
SUPERVISORY PATENT EXAMINER
GROUP 2700